

ASSEMBLY BILL

No. 1571

Introduced by Assembly Member Eggman
(Coauthor: Assembly Member Skinner)
(Coauthor: Senator Block)

January 30, 2014

An act to amend Sections 1569.15, 1569.355, and 1569.618 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1571, as introduced, Eggman. Residential care facilities for the elderly: licensing and regulation.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified.

This bill would, among other things, require an applicant to provide additional information, including, but not limited to, the applicant's history of substantial compliance with the requirements imposed under specified facility licenses, applicable state and federal laws and regulations, and requirements governing the operators of those facilities, and the applicant's prior history of operating a specified facility in another state. The bill would also require that all applicant information be cross checked with the State Department of Public Health to determine if the applicant has a prior history of operating specified licensed facilities.

Existing law requires the Director of Social Services to establish an automated license information system on licensees and former licensees

of licensed residential care facilities for the elderly. The system is required to maintain a record of any information that may be pertinent for licensure. A violation of the provisions of the act is a crime.

This bill would require the department, among other things, to develop and establish a consumer information service system to provide updated and accurate information to the general public and consumers regarding residential care facilities for the elderly, as specified. The bill would require by July 1, 2019, each licensee of a residential care facility for the elderly to submit a profile of resident characteristics to the department on an annual basis, including, but not limited to, the number of residents in the facility who are bedridden, nonambulatory, receiving hospice care, have one or more allowable health conditions, have one or more restricted health conditions, or who have dementia. Because the bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.15 of the Health and Safety Code
2 is amended to read:
3 1569.15. (a) Any person ~~desiring issuance of~~ seeking a license
4 for a residential care facility for the elderly under this chapter shall
5 file with the department, pursuant to regulations, an application
6 on forms furnished by the department, ~~which~~ that shall include,
7 but not be limited to, *all of the following*:
8 ~~(a)~~
9 (1) Evidence satisfactory to the department of the ability of the
10 applicant to comply with this chapter and of rules and regulations
11 adopted under this chapter by the department.
12 ~~(b)~~
13 (2) Evidence satisfactory to the department that the applicant
14 is of reputable and responsible character. The evidence shall
15 include, but not be limited to, a criminal record clearance pursuant

1 to Section 1569.17, employment history, and character references.
2 If the applicant is a firm, association, organization, partnership,
3 business trust, corporation, or company, like evidence shall be
4 submitted as to the members or shareholders thereof, and the person
5 in charge of the residential care facility for the elderly ~~which for~~
6 ~~which the~~ application for issuance of license or special permit is
7 made.

8 (e)

9 (3) Evidence satisfactory to the department that the applicant
10 has sufficient financial resources to maintain the standards of
11 service required by regulations adopted pursuant to this chapter.

12 (d)

13 (4) Disclosure of the applicant's prior or present service as an
14 administrator, general partner, corporate officer or director of, or
15 as a person who has held or holds a beneficial ownership of 10
16 percent or more in, any residential care facility for the elderly or
17 in any facility licensed pursuant to Chapter 1 (commencing with
18 Section 1200), Chapter 2 (commencing with Section 1250), or
19 Chapter 3 (commencing with Section 1500), *and the applicant's*
20 *history of substantial compliance with the requirements imposed*
21 *under that license, applicable state and federal laws and*
22 *regulations, and requirements governing the operators of those*
23 *facilities.*

24 (5) *Prior history of operating any entity specified in paragraph*
25 *(4) in any other state, and the applicant's history of substantial*
26 *compliance with that state's requirements, and applicable federal*
27 *laws, regulations, and requirements.*

28 (e)

29 (6) Disclosure of any revocation or other disciplinary action
30 taken, or in the process of being taken, against a license held or
31 previously held by the entities specified in ~~subdivision (e)~~
32 *paragraph (4).*

33 (f)

34 (7) Any other information as may be required by the department
35 for the proper administration and enforcement of this chapter.

36 ~~(g) Failure of the applicant to cooperate with the licensing~~
37 ~~agency in the completion of the application shall result in the denial~~
38 ~~of the application. Failure to cooperate means that the information~~
39 ~~described in this section and in regulations of the department has~~

1 ~~not been provided, or not provided in the form requested by the~~
2 ~~licensing agency, or both.~~

3 ~~(h)~~

4 (8) Following the implementation of Article 7 (commencing
5 with Section 1569.70), evidence satisfactory to the department of
6 the applicant's ability to meet regulatory requirements for the level
7 of care the facility intends to provide.

8 ~~(i)~~

9 (9) Evidence satisfactory to the department of adequate
10 knowledge of supportive services and other community supports
11 ~~which~~ *that* may be necessary to meet the needs of elderly residents.

12 ~~(j)~~

13 (10) A signed statement that the person desiring issuance of a
14 license has read and understood the residential care facility for the
15 elderly statute and regulations.

16 ~~(k)~~

17 (11) Designation by the applicant of the individual who shall
18 be the administrator of the facility, including, if the applicant is
19 an individual, whether or not the licensee shall also be the
20 administrator.

21 (12) *Each applicant shall disclose to the department evidence*
22 *of the right of possession of the facility at the time the application*
23 *is granted, which may be satisfied by the submission of a copy of*
24 *applicable portions of a lease agreement or deed of trust. The*
25 *names and addresses of any persons or organizations listed as*
26 *owners of record in the real estate, including the buildings and*
27 *the grounds appurtenant to the buildings, shall be disclosed to the*
28 *department.*

29 ~~(l)~~

30 (13) Evidence of successfully completing a certified
31 prelicensure education program pursuant to Section 1569.23.

32 ~~(m)~~

33 (14) For any facility that promotes or advertises or plans to
34 promote or advertise special care, special programming, or special
35 environments for persons with dementia, disclosure to the
36 department of the special features of the facility in its plan of
37 operation.

38 (b) *All applicant information shall be cross checked with the*
39 *State Department of Public Health to determine if the applicant*

1 *has a prior history of operating any entity specified in paragraph*
2 *(4).*

3 *(c) Failure of the applicant to cooperate with the licensing*
4 *agency in the completion of the application shall result in the*
5 *denial of the application. Failure to cooperate means that the*
6 *information described in this section and in the regulations of the*
7 *department has not been provided, or has not been provided in*
8 *the form requested by the licensing agency, or both.*

9 *(d) The information required pursuant to this section, other*
10 *than individuals' social security numbers, shall be made available*
11 *to the public upon request, and shall be included in the*
12 *department's public file regarding the facility and in an online*
13 *inquiry system accessible through the department's Internet Web*
14 *site.*

15 *(e) The department may deny an application for licensure under*
16 *this chapter on the grounds that the applicant knowingly made a*
17 *false statement of fact with regard to information that was required*
18 *by the application for licensure.*

19 SEC. 2. Section 1569.355 of the Health and Safety Code is
20 amended to read:

21 1569.355. (a) The director shall establish *and maintain* an
22 automated license information system on licensees and former
23 licensees of licensed residential care facilities for the elderly. The
24 system shall maintain a record of any information that may be
25 pertinent, ~~as determined by the director,~~ for licensure under this
26 chapter. This information ~~may~~ *shall* include, but is not limited to,
27 the licensees' addresses, telephone numbers, violations of any laws
28 related to the care of clients in a residential care facility for the
29 elderly, licenses, *and* revocation of any licenses ~~and, to the extent~~
30 ~~permitted by federal law, social security numbers,~~ *including any*
31 *prior health facility licenses and prior licenses for residential care*
32 *facilities for the elderly.*

33 (b) *The department shall develop and establish a consumer*
34 *information service system to provide updated and accurate*
35 *information to the general public and consumers regarding*
36 *residential care facilities for the elderly in their communities. The*
37 *department shall make public information from the consumer*
38 *information system available in electronic format to individuals*
39 *or organizations.*

1 (c) By July 1, 2015, the department shall establish an online
2 inquiry system accessible through an Internet Web site and post
3 residential care facility for the elderly profiles, with data,
4 including, but not limited to, all of the following:

5 (1) The name, address, and telephone number of the licensed
6 providers, including the owner and the licensee.

7 (2) The number of licensed beds in the facility, including the
8 number of nonambulatory beds.

9 (3) Whether the facility is permitted to provide hospice care
10 services.

11 (4) Whether the facility has a special care unit or program for
12 people with Alzheimer's disease and other dementias or has a
13 delayed egress or secured perimeter system in place.

14 (5) Aggregate information on each facility, including, for each
15 of the previous five years, the number of complaints filed against
16 the facility, the number of deficiencies, enforcement actions
17 resulting in fines against the facility, and the amount of the fines
18 assessed and the amount collected.

19 (d) By July 1, 2016, the profile for each facility shall include
20 all of the following:

21 (1) Department actions, including license suspensions,
22 revocations, probations, settlements, stipulations, accusations,
23 audits, compliance conferences and compliance plans or other
24 administrative or legal actions, and when the administrative or
25 legal action was taken and will be terminated.

26 (2) Any enforcement action resulting in a fine, stating the nature
27 of the regulatory violation, the amount of the fine, and the amount
28 collected.

29 (3) A history of inspections and department actions for the last
30 five years.

31 (e) By July 1, 2017, the profile of each facility shall include all
32 of the following:

33 (1) Information regarding complaints, including the nature of
34 the complaint, results of the complaint investigation, actions taken,
35 and the dates that the complaint was received, investigated, and
36 closed.

37 (2) Information regarding violations assessed, including the
38 type of deficiency, status of the violation, the facility's plan of
39 correction, when the corrections were completed, information as

1 *to whether an appeal has been filed, and whether fines were*
2 *assessed and the amount collected.*

3 *(3) Posting of the facility inspection reports and plans of*
4 *correction, including findings of the most recent inspection report*
5 *and the date that the inspection was conducted.*

6 *(f) Any resolution of an appeal pertaining to a violation or*
7 *complaint shall be updated in a timely manner.*

8 *(g) By July 1, 2018, the profile shall include all of the following:*

9 *(1) Facility reports of any alleged elder abuse and suspicious*
10 *death, the date of the report, and whether these reports resulted*
11 *in an investigation, including the date and results of the*
12 *investigation.*

13 *(2) Whether the facility or licensee has ever reported any of the*
14 *events listed in subdivision (a) of Section 1569.686 to the*
15 *department.*

16 *(3) Ownership information, including, but not limited to, whether*
17 *the licensee is a for-profit or not-for-profit provider, the names*
18 *and license numbers of other facilities owned, managed, or*
19 *operated by the same licensee, and the names and addresses of*
20 *any persons or organizations listed as owners of record of the real*
21 *estate, including the buildings and the grounds appurtenant to the*
22 *buildings. The information required by this paragraph shall be*
23 *provided to the department upon initial application for licensure,*
24 *and any change in the information shall be provided to the*
25 *department within 30 calendar days of that change.*

26 *(4) Information in this subdivision shall be updated on a regular*
27 *basis but no less frequently than quarterly.*

28 *(h) By July 1, 2019, each licensee of a residential care facility*
29 *for the elderly shall submit a profile of resident characteristics to*
30 *the department on an annual basis, including, but not limited to,*
31 *the number of residents in the facility who are bedridden,*
32 *nonambulatory, receiving hospice care, have one or more*
33 *allowable health conditions, have one or more restricted health*
34 *conditions, or who have dementia. The department shall include*
35 *this information on the facility profile annually.*

36 *(i) By July 1, 2019, the department shall develop and implement*
37 *a rating system.*

38 *(j) It is the intent of the Legislature that the department, in*
39 *developing and establishing the system pursuant this section, shall*
40 *work with stakeholder groups, including consumer organizations.*

1 (k) *The department shall interface the consumer information*
2 *service system with its automated license information system on*
3 *licensees and former licensees of licensed residential care facilities*
4 *for the elderly.*

5 (l) *In implementing this section, the department shall ensure*
6 *the confidentiality of personal and identifying information of*
7 *residents and employees and shall not disclose this information*
8 *through the consumer information service system developed*
9 *pursuant to this section.*

10 SEC. 3. Section 1569.618 of the Health and Safety Code is
11 amended to read:

12 1569.618. (a) The administrator designated by the licensee
13 pursuant to ~~subdivision (k)~~ *paragraph (11) of subdivision (a)* of
14 Section 1569.15 shall be present at the facility during normal
15 working hours. A facility manager designated by the licensee with
16 notice to the department, shall be responsible for the operation of
17 the facility when the administrator is temporarily absent from the
18 facility.

19 (b) “Facility manager” means a person on the premises with
20 the authority and responsibility necessary to manage and control
21 the day-to-day operation of a residential care facility for the elderly
22 and supervise the clients. The facility manager, licensee, and
23 administrator, or any combination thereof, may be the same person
24 provided he or she meets all applicable requirements. If the
25 administrator is also the facility manager for the same facility, he
26 or she shall be limited to the administration and management of
27 only one facility.

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.